

## **REMARKS**

Claims 1, 7, 14 and 27 have been amended. Claims 1-38 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### **Section 101 Rejection:**

The Examiner rejected claims 1-14 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 has been amended to overcome this rejection and removal thereof is respectfully requested.

### **Section 102(e) Rejection:**

The Examiner rejected claims 1-3, 6, 7, 12, 13, 15, 16, 25-28, 37 and 38 under 35 U.S.C. § 102(e) as being anticipated by Krishnamurthy (U.S. Patent 6,421,676). Applicants respectfully traverse this rejection for at least the following reasons.

Regarding claim 15, contrary to the Examiner's contention, Krishnamurthy fails to anticipate receiving a plurality of management requests from a multi-threaded manager application into a secondary scheduler in a thread-safe manner. Krishnamurthy teaches a distributed data collection process. Krishnamurthy teaches that the scheduling of data transfers from endpoints or downstream collectors or to upstream collectors is based on local queues and that scheduling for an input queue, which manages data collection from endpoints, is separated from the scheduling for the output queue, which manages notifications to upstream collectors regarding the availability of collection data for pickup. The Examiner asserts that Krishnamurthy's input scheduler, which the Examiner equates to the secondary scheduler of Applicants' claim, receives management requests from a higher collector, which the Examiner equates to the multi-threaded manager application of Applicants' claim. The Examiner cites column 6, lines 20 – 29 and column 8, lines 1 – 6 of Krishnamurthy in support. However, Krishnamurthy's input queue does not receive management requests from a higher collector, as the Examiner

contends. Instead, Krishnamurthy teaches that the input queue stores requests for collection from downstream nodes, such as endpoints or *lower* level collectors and not from higher level collectors, as the Examiner erroneously contends.

Additionally, Krishnamurthy's endpoints (or lower level collectors) cannot be considered the multi-threaded *manager* application of Applicants' claim. Krishnamurthy teaches that endpoints, which may also be called "sources", are systems from which data is to be collected (column 3, lines 8 – 14). Krishnamurthy's endpoints clearly cannot be considered the *multi-threaded manager application* of Applicants' claims. In other words, Krishnamurthy teaches an input queue that receives data transfers from data collection sources and fails to teach receiving a plurality of management requests from a multi-threaded manager application into a secondary scheduler in a thread-safe manner, as recited in Applicants' claim.

Furthermore, Krishnamurthy's data collection messages are not management requests. Krishnamurthy teaches that the input queue and output queue store CTOC (Collection Table of Contents) elements (column 6, lines 57-60). Krishnamurthy further teaches that the CTOC is a data structure including information about the collection such as source, recipient, priority, time window, and collection identifier (column 5, lines 14-21). It is unclear, and the Examiner fails to explain, how Krishnamurthy's CTOCs may be "executed".

Applicants remind the Examiner that anticipation requires the presence in a single prior art reference disclosure of each and every limitation of the claimed invention, arranged as in the claim. M.P.E.P 2131; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The **identical** invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As discussed above, Krishnamurthy fails to disclose receiving a plurality of management requests from a multi-threaded manager application into a secondary scheduler in a thread-safe manner. Therefore, Krishnamurthy cannot be said to anticipate claim 15.

Therefore, the rejection of claim 15 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claims 1 and 27.

Further regarding claims 15 and 27, Krishnamurthy also fails to anticipate executing the management requests on the managed objects after scheduling the management requests in the primary queue. The Examiner cites column 3, lines 8 – 14, where Krishnamurthy describes that endpoints are systems from which data is to be collected, gateways are systems that facilitate communication between endpoints and collectors, recipients are objects or processes that receive collected data. Nothing in the cited passage describes executing any management requests on managed objects. The collection and transferring of data from endpoints to recipients, via gateways does not anticipate anything regarding executing management requests on managed objects. The Examiner is merely speculating regarding the workings of Krishnamurthy's system.

Furthermore the Examiner considers the CTOC messages to be the management requests of Applicants' claims. As noted above, Krishnamurthy teaches that the CTOC is a data structure including information about the collection such as source, recipient, priority, time window, and collection identifier (column 5, lines 14-21). It is unclear, and the Examiner fails to explain, how Krishnamurthy's CTOCs may be "executed".

#### **Section 103(a) Rejection:**

The Examiner rejected claims 4, 5, 8-11, 17-24 and 29-36 under 35 U.S.C. § 103(a) as being unpatentable over Krishnamurthy. Applicants traverse the rejection of these claims for at least the reasons presented above regarding their respective, independent claims.

Further regarding claims 17 and 18, the Examiner takes Official Notice that "it is well known in the art that a management system, i.e. SNMP or CORBA has callback functions that are used to send responses back to the invoker process and therefore would

be obvious to the teachings of Krishnamurthy in order to send results back to the collector.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice. Applicant asserts that it was not well known in the prior art that each management request comprises a corresponding callback function in the context of scheduling a plurality of management requests. Furthermore, the Examiner equates Krishnamurthy’s CTOC data structures with the management requests of Applicants’ claims. Krishnamurthy does not teach that every CTOC structure includes a corresponding callback function. Nor would there be any reason to includes a corresponding callback function in each of Krishnamurthy’s CTOC data structures. Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

In further regard to claims 20-22, the Examiner takes Official Notice that “such environments [Portable Management Interface that corresponds to a telecommunications device] are well known in the art.” Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner’s taking of official notice. Applicant asserts that it was not well known in the prior art that each management request comprises a corresponding callback function in the context of scheduling a plurality of management requests. Furthermore, the Examiner equates Krishnamurthy’s CTOC data structures with the management requests of Applicants’ claims. Krishnamurthy does not teach that every CTOC structure includes a corresponding callback function. Nor would there be any reason to includes a corresponding callback function in each of Krishnamurthy’s CTOC data structures. Pursuant to M.P.E.P. § 2144.03 Applicant asserts that “the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Furthermore, the Examiner has not provided proper motivation for combining the Official notice with Krishnamurthy. The Examiner merely states that it “would be obvious that the invention of Krishnamurthy functions in those well known environments [Portable Management Interface that corresponds to a telecommunications device] since

the invention is well-suited for data collection from mobile endpoints ... and in any network”. However, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination” (M.P.E.P. 2143.01 and *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). Just because Krishnamurthy’s system may be well suited for data collection from mobile endpoints does not make it obvious to modify Krishnamurthy’s system to use a Portable Management Interface and include managed objects corresponding to a telephone network.

Moreover, Krishnamurthy does not teach that his system is well-suited for data collection “in any network” as asserted by the Examiner. The Examiner cites column 12, lines 28 – 31, where Krishnamurthy makes a general statement that “it will be understood by those skilled in the art that various changes in form and detail may be made ... without departing from the spirit and scope” of Krishnamurthy’s invention. A general statement regarding changes “in form and detail” does not teach or suggest that Krishnamurthy’s system is well-suited for data collection “in any network” and clearly fails to teach or suggest the specific limitation of the use of Portable Management Interface and managed objects corresponding to a telephone network, as asserted by the Examiner.

Further regarding claims 23 - 24 and 35 - 36, the combination of Krishnamurthy and the Examiner’s Official Notice fails to teach or suggest receiving or dispatching a plurality of management requests through a thread-safe lock. The Examiner relies on Unix Network Programming by Stevens to support the taking of Official Notice that “it is well known in the art that when communicating one can use a lock, i.e. semaphore, to synchronize the transfer of messages or grant the transfer of messages to/from the recipient/sender.” While the general use of locks, such as semaphores, may be well-known in general, as taught by Stevens, Applicants submit that the specific limitations of claims 23 - 24 and 35 – 36 is not well-known. Neither the Examiner’s Official Notice nor Krishnamurthy, whether considered singly or in combination, teaches or suggests receiving a plurality of management requests from a multi-threaded manager application

into a secondary scheduler through a thread-safe lock. Krishnamurthy fails to mention anything regarding the use of locks. Additionally, as argued above, Krishnamurthy's system does not involve receiving a plurality of management requests from a multi-threaded manager application.

Further regarding claim 14, the combination of Krishnamurthy and the Examiner's Official Notice fails to teach or suggest wherein a communication pipe between the primary scheduler and secondary scheduler, wherein the secondary scheduler uses the communication pipe to wake the primary scheduler prior to sending one of the requests to the primary scheduler. The Examiner relies on Unix Network Programming by Stevens to support the taking of Official Notice that "when sending messages between programs a pipe is used." While the general use of communication pipes, such as taught by Stevens, may be well-known in general, Applicants submit that the specific limitation of claim 14 is not well-known. Neither the Examiner's Official Notice nor Krishnamurthy, whether considered singly or in combination, teaches or suggests a secondary scheduler using a communication pipe to wake a primary scheduler prior to sending a management request to the primary scheduler. Krishnamurthy fails to mention anything about a secondary scheduler waking a primary scheduler prior to sending a management request. In fact, as argued above, Krishnamurthy fails to teach or suggest sending management requests at all. The Examiner's Official Notice also does not teach or suggest anything regarding a secondary scheduler using a communication pipe to wake a primary scheduler prior sending a management request. Thus, whether considered singly or in combination, Krishnamurthy and the Examiner's Official Notice fail to teach or suggest the limitation of claim 14.

Regarding both the § 102 and § 103 rejections, Applicants assert that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejections have been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

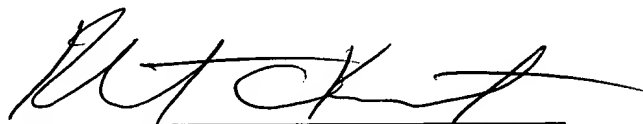
Applicants submit the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicants hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-48600/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,



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